IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 179/2005.

Shri Pundalik V. Naik,
resident of Arambol, Pernem, Goa. ..... Petitioner.

V/s.

The Goa Coastal Zone Management
Authority, Saligao, Bardez, Goa. ..... Respondent.

Mr. M.S. Sonak, Advocate for the petitioner.

Mr. M. S. Joshi, Government Advocate for the respondent.

CORAM : R.M. LODHA, J.

DATE : 15TH SEPTEMBER, 2005.

ORAL ORDER

Heard Mr. M. S. Sonak, the learned Counsel for the petitioner. I perused the Order passed by the Goa Coastal Zone Management Authority at Panaji - Goa (for short "the Authority") dated 22/12/2004 and the material annexed with the writ petition by the petitioner.

2. The learned Counsel for the petitioner assailing the

order of the Authority submitted that much before the show cause notice dated 24.09.2004 was issued to the petitioner by the Authority, the Village Panchayat of Arambol by Resolution dated 9.1.2004 resolved that no illegal construction has been raised by the petitioner and that the Member Secretary of the Authority should be requested to cancel the show cause notice issued to it. The learned Counsel for the petitioner also submitted that no report of the Deputy Collector Bardez - II dated 11.11.2003, reference of which has been made in the show cause notice dated 24.9.2004, was supplied to the petitioner. The submission of the learned Counsel for the petitioner is that the construction was raised by the petitioner much before 19.2.1991 and, therefore, it was a protected construction and its demolition could not have been ordered by the Authority for breach of C.R.Z. Notification issued under the Environment Protection Act, 1986.

3. The submissions of the learned Counsel for the petitioner do not impress me at all. It is not in dispute that before the impugned order came to be passed by the Authority, the show cause notice dated 24.9.2004 was issued to the petitioner. It is true that in the show cause notice, reference is made to the

report of the Deputy Collector Bardez -II and also to the show cause notice issued to the Village Panchayat of Arambol. The show cause notice itself shows that before issuance of show cause notice, the Authority considered the resolution No.9 dated 9.1.2004 passed by the Village Panchayat of Arambol. It appears that because the Authority was not in agreement with the resolution of the Village Panchayat dated 9.1.2004 that the notice came to be issued for breach of the C.R.Z. Notification. Non-supply of the report of the Deputy Collector Bardez - II does not vitiate the proceedings initiated against the petitioner under the Environment Protection Act, 1986 for breach of C.R.Z. Notification.

4. As a matter of fact, I asked the learned Counsel for the petitioner to show me material which may lead to the conclusion that the construction was raised by the petitioner before 19.2.1991. The documents upon which the reliance was placed by the petitioner before the Authority were referred by the learned Counsel for the petitioner. None of these documents indicates that the construction was raised by the petitioner prior to 19.2.1991. The electricity bill upon which reliance is placed by the petitioner is dated 25.2.1992. The certificate from the Village Panchayat of

Arambol is dated 20/6/1999 and, therefore, the statement made therein that the structure was old and was regularised in the year 1997 could, hardly, be accepted. The certificate of registration of hotel from the Department of Tourism also is dated 21.07.1999. The renewal certificate is dated 12.4.2002. The receipt issued by the Village Panchayat for payment of house tax/light tax is dated 26.10.1997. The no objection certificate from the Village Panchayat is also dated 19.7.1998. It is, thus, apparent from all the documents referred to and relied upon by the petitioner that these documents are post 19.2.1991. The conclusion of the Authority, therefore, that the construction was raised by the petitioner after 19.2.1991 cannot be faulted.

5. The impugned order does not call for any interference. The writ petition is dismissed in limine.

R.M. LODHA, J.

ssm.